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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MASAFUMI USUDA, ANIL UMESH,
and TAKEHIRO NAKAMURA

Appeal 2015-002053
Application 11/662,902
Technology Center 2600

Before ELENi MANTIS MERCADER, JOHNNY A. KUMAR, and
BETH Z. SHAW, *Administrative Patent Judges*.

KUMAR, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Non-Final Rejection of claims 1, 4, 6, 9–12, 14–18, and 20. Claims 5, 19, and 21 are objected to. Claims 2, 3, 7, 8, and 13 have been canceled. An oral hearing was conducted on January 9, 2017. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

THE INVENTION

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A mobile communication system provided with a radio control station and radio base station, wherein:

the radio control station comprises a notification section configured to notify the radio base station of a code of an exclusive channel used only for notification of the transmission rate information for notifying the mobile station of transmission rate information regarding a transmission rate of user data of an uplink channel and not used for notification of information other than the transmission rate information, and further configured to notify the mobile station of a code of a channel used for notification of transmission rate information of user data of the uplink channel; and

the radio base station comprises a transmission rate control section configured to determine transmission rate information to be used by the mobile station, and

a transmission section configured to transmit to the mobile station the determined transmission rate information via the exclusive channel of which the code is notified.

REJECTION ON APPEAL

Claims 1, 4, 6, 9–12, 14–18, and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Blanc (EP 1 033 849 A1, Sept. 6, 2000), Vasudevan (US 2005/0030953 A1, Feb. 10, 2005), 3GPP specification, and Whinnett (US 2004/0219919 A1, Nov. 4, 2004). Non-Final Act. 3–12.¹

ANALYSIS

The pivotal issue is whether the Examiner erred in finding that the combination of Blanc, Vasudevan, 3GPP, and Whinnett teaches the limitation of “a code of an *exclusive channel* used only for notification of the transmission rate information” as recited in claim 1 and similarly recited in claims 6, 10, 12, and 15.

Appellants argue that the

applied art of record lacks “a notification section configured to notify the radio base station of a code of an *exclusive channel always used only for notification of the transmission rate information* for notifying the mobile station of transmission rate information regarding a transmission rate of user data of an uplink channel.”

Br. 10 (hereinafter “exclusive channel” limitation) (emphasis ours, Appellants’ emphasis omitted).

We are not persuaded by Appellants’ argument. A careful reading of the Examiner’s cited paragraph 19 of Vasudevan (Non-Final Act. 3, 5), states in pertinent part (emphasis ours):

[I]nstructions, such as the rate control bit, sent according to the rate control scheduling mode are sent by the base station over a

¹ As pointed out by Appellants, the Examiner inadvertently omits the 3GPP specification and the Whinnett reference on page 3 of the Non-Final Action. Br. 9. We find that this is harmless error for the purpose of this Appeal.

different channel. More particularly, these instructions are sent on a sub-channel of the forward link control and acknowledgement channel (F-UCACH), also referred to as the rate control channel.

Thus, we agree with the Examiner's findings that in Vasudevan (para. 19), the F-UCACH channel constitutes a different and separate rate control sub-channel. As a result, we find Appellants' contention that the applied art of record lacks the exclusive channel limitation unavailing given Vasudevan's above-noted disclosure.

As to Appellants' general contention that the examiner fails to articulate a valid motivation to modify the Blanc reference (Br. 12–13), the Examiner finds:

it would have been obvious to one of ordinary skill in the art, at the time of this invention was made, to modify a resource allocation for uplink transmission rate of Blanc by providing a forward link uplink scheduling channel as taught by Vasudevan to obtain the claimed invention as specified. Such a modification would have controlled the reverse link transmissions with the scheduled transmission mode and the rate control scheduling mode to reduce the transmission power and bandwidth needed on the forward link as suggested by Vasudevan (see par. [0005] on pg. 1 of Vasudevan).

Non-Final Rej. 5–6.

The U.S. Supreme Court has held that “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 416 (2007). The Court further instructs that:

[o]ften it will be necessary for a court to look to interrelated teachings of multiple patents; . . . and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent

reason for combining the known elements in a the fashion claimed by the patent at issue.

Id. at 418.

Additionally, the Court instructs that:

[r]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness [H]owever, the analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.

Id. (citation and internal quotation marks omitted).

We find that at the time of the invention it would have been within the ordinarily skilled artisan's technical grasp, to fit the teachings of Blanc and Vasudevan (including established knowledge in the art) together like pieces of a puzzle to predictably result in the disputed limitations. We conclude the proffered combination of Blanc and Vasudevan would predictably reduce the transmission power and bandwidth needed on the forward link. *See, e.g.*, Non-Final Rej. 5–6. We note Appellants' arguments (Br. 12–13), do not explain why the Examiner's motivational statement does not suffice as an articulated reason with a rational underpinning to support the proffered combination, and thus, these arguments are not persuasive of Examiner error.

Consequently, we conclude there is no reversible error in the Examiner's rejections of claims 1, 6, 10, 12, and 15, and the corresponding dependent claims not argued separately.

DECISION

We affirm the Examiner's rejections of claims 1, 4, 6, 9–12, 14–18, and 20.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED